
Appeal Decision

Site visit made on 19 October 2020

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020

Appeal Ref: APP/J9497/W/20/3257595

Burrator Reservoir, Road From Burrator Dam To Old School House, Sheepstor PL20 6PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Davies, EE Ltd against the decision of Dartmoor National Park Authority.
 - The application Ref 0184/20, dated 31 March 2020, was refused by notice dated 17 July 2020.
 - The development proposed is described as installation of a 25m lattice with 2 antennas, two 0.6m dishes, 3 equipment cabinets and electrical meter cabinet, temporary generator within a fenced compound.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a 25m lattice with 2 antennas, two 0.6m dishes, 3 equipment cabinets and electrical meter cabinet, temporary generator within a fenced compound at Burrator Reservoir, Road From Burrator Dam To Old School House, Sheepstor PL20 6PE in accordance with the terms of the application, Ref 0184/20, dated 31 March 2020, and subject to the conditions set out in the schedule to this decision.

Main Issue

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the setting and appearance of non-designated heritage assets.

Reasons

Character and appearance

3. The appeal site is located in the heavily forested area of Yennadon Plantation. It is in close proximity to some assets and infrastructure serving Devonport Leat and the abandoned Princetown Railway track – now a popular and well-used footpath and cycleway – runs past the site. The surrounding area provides a dramatic moorland landscape setting, with the popular Burrator Reservoir surrounded by the steep valley, woodlands, upland moor and tors. As set out by the Dartmoor National Park Authority (Authority), the site is within the sensitive Upland River Valleys Landscape Character Type of Dartmoor National Park, as defined by the Authority's Landscape Character Assessment 2017.

4. Being located within the National Park, the appeal proposal has the potential to affect the character and appearance of the designated landscape. The National Planning Policy Framework (Framework) sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. The level of protection is emphasised by the English National Parks and Broads UK Government Vision and Circular 2010 (Circular) which, for example, refers to the Sandford Principle and sets out that the designation confers the highest status of protection. I am also mindful of my duties under Part III, section 62 of the Environment Act 1995, which requires relevant authorities – in exercising any functions in relation to, or so as to affect, land in a National Park – to have regard to the purposes for which National Parks are designated. Amongst other aspects, this includes conserving and enhancing natural beauty and cultural heritage.
5. Set within a plantation and having a similar height to the extensive surrounding trees, the proposed development would be well screened from the wider landscape, including other woodland, the reservoir, moorland and tors. As shown in the submitted viewpoints and as I observed on the site visit, it would therefore not be particularly visible in the wider area, with views from public vantage points around the reservoir generally limited to long distance glimpses of the topmost part of the tower. Confirming this, the comments from the Authority's landscape officer set out that the development would have minimal visual impact and would have a limited impact on the character of the local landscape. Accordingly, although it would be readily visible in the immediate locality of the site, including from the footpath and cycleway, I am satisfied that it would not result in visual harm to the special qualities, beauty and scenic landscape setting of the wider area.
6. There are various man-made features in the vicinity of the site, including the abandoned railway track, the leat and its associated assets including a small modern building and various railings and other paraphernalia. The proposed tower and its equipment, located within a fenced compound, would therefore not introduce development into a completely undeveloped environment. It would also be finished in subdued colours while surrounding trees would provide a significant backdrop. Nevertheless, it would appear from a short section of the track as a conspicuous and somewhat unexpected feature, particularly given its size and stark, utilitarian form.
7. Accordingly, it would harm the character and appearance of its immediate woodland setting, which forms part of Dartmoor's special qualities. However, for the above reasons and given the proximity of the appeal proposal to existing development and that it would only be visible along a short stretch of the footpath and cycleway, the harm would be limited and not significant.
8. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with Policies COR1, COR3, DMD1a, DMD1b, DMD3, DMD4, DMD7 and DMD20 of the Dartmoor National Park Development Plan (DNPDP)¹. Amongst other aspects, these: set out the Authority's approach to sustainable development, delivering National Park purposes and protecting the Park's special qualities; and require development with high standards of design to sustain good quality places and local distinctiveness, conserve the natural

¹ The DNPDP consists of the Local Development Framework Core Strategy Development Plan Document 2006-2026 (2008) and the Development Management and Delivery Development Plan Document (2013).

beauty and characteristic landscapes of the Park, and avoid damaging the landscape character of the immediate vicinity and detracting from the area's special qualities. The proposal would also be inconsistent with the provisions in the Framework in relation to conserving and enhancing the natural environment and the advice contained in the Dartmoor National Park Design Guide (supplementary planning document, 2011) including with regards to ensuring that development is not alien or intrusive.

Heritage assets

9. The abandoned Princetown Railway and the still-functional Devonport Leat are identified by the Authority as non-designated heritage assets. Both are long, linear assets, with the railway track running directly past the site and the leat running underground until it surfaces nearby, on the opposite side of the track. By linking the past with the present, particularly given both assets are still in use, albeit by walkers and cyclists rather than trains and trams in relation to the railway line, the assets' significance stems from, amongst other aspects, their historical value.
10. The Authority's Design Guide states that Dartmoor's heritage assets have, to a greater or lesser extent, some capacity to absorb change, but the way in which this is achieved must be carefully managed. The Framework sets out that the conservation and enhancement of cultural heritage is an important consideration and should be given great weight in National Parks. This is emphasised by the Circular, which identifies that the Parks represent an important contribution to the nation's cultural heritage, are living and working landscapes, and over the centuries their natural beauty has been influenced by human activity. As set out above, the Environment Act also requires regard to be had to conserving and enhancing the cultural heritage of National Parks.
11. Given the proposed development would be situated near but not on the assets, it would not directly affect them and as such their appearance would not be harmed. However, due to the proximity of the site to the leat and railway track, it would be within their settings.
12. The settings of both assets in the vicinity of the site includes, amongst other aspects, their woodland surroundings with historic water and transport infrastructure creating the sense of a landscape influenced by human activity. The provision of the proposed communication infrastructure would continue this influence. The development would therefore not be experienced as introducing man-made infrastructure into an undeveloped, natural environment untouched by humans. However, the modern form of the mast and its significant height would nevertheless contrast with – and appear unrelated to – the adjacent historic assets and this would read as harming their settings to some extent.
13. For the above reasons, the proposed development would harm the setting of non-designated heritage assets. I therefore find that it conflicts with DNPDP Policies COR3, COR5 and DMD7 which, amongst other aspects, seek to conserve the special qualities and settings of the historic built environment, and require development to conserve the distinctive historic features that contribute to Dartmoor's special qualities. However, in such circumstances, DNPDP Policy COR8 and the Framework indicate that a balanced judgement should be come to having regard to the scale of the harm and the significance of the asset.

14. The effect of the proposed development on the settings of the leat and railway track would be limited to a relatively small area of the long, linear nature of both assets. Furthermore, their historic significance would not be affected by the proposed development. Consequently, I find that the harm to the significance of the leat and railway track, as non-designated heritage assets, would be minor.
15. The appeal proposal would provide essential infrastructure in support of the Emergency Services Network (ESN). Filling in much of the existing network coverage gaps, of which the submitted evidence shows do exist in several places in the locality, the proposed mast would provide improved coverage around Burrator Reservoir. This would enable the emergency services to access information and critical communications in various areas where it is currently not possible for them to do so. I give this substantial weight as a significant public benefit. Additionally, the development would improve mobile phone coverage for the public in what is a popular and busy area with local residents and tourists, with users of any mobile network also able to make emergency calls via the proposed mast.
16. In balancing my above findings and having regard to the scale of the harm and the significance of the heritage assets, I conclude that the significant public benefits of the proposed development outweigh the limited harm that would occur to the setting of the non-designated heritage assets. I therefore find that the proposal accords with DNPDP Policy COR8 and the provisions in the Framework in relation to conserving and enhancing the historic environment. In coming to this view, I note the submitted details relating to the appellant's consideration of other potential sites for the proposed development. Given the degree of separation to the listed Burrator Dam, I am also satisfied that the proposed development would not harm that designated asset.

Other matters

17. The proposed development would be different and taller than the nearby mast recently dismissed at appeal (Ref APP/J9497/W/20/3250647) and the scheme the subject of consultation in June 2019. However, the submitted evidence indicates that the height of the proposed mast the subject of this appeal is determined by the site's characteristics amongst other things, and that a shorter mast would not provide the mobile coverage required given the height of surrounding trees. I also observed on my site visit that the other recently dismissed mast was proposed to be sited in a notably different, significantly more open and visible setting. I have therefore determined the appeal proposal on its own merits, based on the evidence before me.
18. A number of other matters have been raised by interested parties and I have taken them all into account. These include matters related to the public entering the compound, mobile signal already being adequate in the area, not everyone wanting signal at all times, that usage by emergency services would be minimal, improving network coverage would lead to increased visitor numbers and this would harm the environment and local area, potential harm to flora and fauna, and the mental and physical benefits that only nature on its own can provide. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal is not needed in relation to the ESN and/or would result in

unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed.

Planning Balance

19. I have found that the proposed development would harm the character and appearance of the surrounding area and the setting of non-designated heritage assets. However, in both cases, the harm I have identified would be, respectively, not significant and minor. Notwithstanding the great weight given to conserving and enhancing the landscape, scenic beauty and cultural heritage of the National Park, I find that the totality of the harm would be limited.
20. In considering the benefits of the appeal proposal, I place significant weight on the provision of essential ESN infrastructure which would improve network coverage and thus enable emergency services to access important information and critical communications in areas around the reservoir which they currently cannot. There is also a benefit from members of the public having improved mobile coverage, both for customers of the network operator and for 999 calls from any mobile network. The Framework also supports the expansion of electronic communications networks, and amongst other things sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.
21. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I place great weight on the purposes for which the National Parks is designated, including in relation to landscape, natural beauty and cultural heritage, and which receive the highest level of protection. I also attach significant weight to the conflict I have identified with the DNPD. However, in this instance, I find that the above material considerations outweigh the limited harm that I have identified. This indicates that permission should be granted, notwithstanding that the development does not accord with the above listed DNPD policies.

Conditions

22. I have had regard to the planning conditions that have been suggested by the main parties. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
23. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Conditions relating to the finished colours of the development and requiring its removal once it is redundant are necessary in the interests of the character and appearance of the surrounding area.
24. I note that the Ecology and Wildlife Officer's comments on the planning application requested that their recommendation – relating to site clearance, including vegetation removal, and nesting birds – be included as a condition. Although the Authority has not suggested it within its appeal statement, I have included such a condition as I consider that it is necessary in order to ensure that works associated with the development do not harm protected species.

Conclusion

25. For the above reasons, the appeal is allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No ESN7031/100 Rev. A; Drawing No ESN7031/101 Rev. A; Drawing No ESN7031/102 Rev. A; and Drawing No ESN7031/104 Rev. A.
- 3) The development hereby permitted shall be removed upon redundancy and the land reinstated to its former condition within a period of six months unless otherwise agreed in writing by the Local Planning Authority.
- 4) Unless otherwise agreed in writing by the Local Planning Authority, prior to first use of the development hereby permitted, the lattice tower shall be painted in black and maintained as such in perpetuity.
- 5) Unless otherwise agreed in writing by the Local Planning Authority, prior to first use of the development hereby permitted, the ground cabinets and compound fencing shall be painted in fir green and maintained as such in perpetuity.
- 6) Works involving cutting or clearance of shrubs, hedges or other vegetation which may provide nesting sites for birds should not be carried out during the bird breeding season (which typically lasts between 1 March and 15 September in any year). If works must take place within the bird breeding season, appropriate measures must be taken, including a survey by a suitably qualified person no more than 24 hours prior to the commencement of works, to ensure that there is no threat, disturbance or harm to the nests. If nesting birds are present, then the works that could threaten, disturb or harm them should not commence until breeding has finished and all fledglings have departed the nest.

END OF SCHEDULE